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J.A., Appellant)	
)	
and)	Docket No. 22-0103
)	Issued: March 21, 2022
DEPARTMENT OF VETERANS AFFAIRS, VA)	
MEDICAL CENTER, Durham, NC, Employer)	
)	

² 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On December 18, 2020 appellant, then a 38-year-old food service worker, filed an occupational disease claim (Form CA-2) alleging that he experienced difficulties with his hand and wrist due to factors of his federal employment including repeatedly wiping down food carts. He attributed his condition to “systemic infection, repeated stress or strain or conditions of the work environment.” Appellant noted that he first became aware of his condition and its relationship to his federal employment on January 20, 2020.³

In a development letter dated December 23, 2020, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed and provided a questionnaire for his completion. By separate development letter of even date, OWCP also requested additional information from the employing establishment, including a description of the repetitive tasks that appellant performed as part of his work duties. It afforded both parties 30 days to respond.

In an undated response, appellant related that his date of injury was September 25, 2019, even though he was not diagnosed until January 20, 2020. He advised that on September 25, 2019 he had sustained pain and numbness in his right hand that was subsequently diagnosed as carpal tunnel syndrome. Appellant advised that he experienced the symptoms of carpal tunnel syndrome when wiping down food carts and noted that he had worked 20 years for the employing establishment.

By decision dated March 12, 2021, OWCP denied appellant’s occupational disease claim. It found that he had not submitted sufficient evidence to establish that the work factors occurred as alleged and further had not submitted any medical evidence containing a diagnosis in connection with the claimed work events.

On March 22, 2021 appellant, through counsel, requested a telephonic hearing before a representative of OWCP’s Branch of Hearings and Review.

Thereafter, OWCP received a March 13, 2020 report from Dr. Timothy Andrews Ashley, Board-certified in internal medicine, who evaluated appellant for pain and weakness of the right hand and noted that an orthopedist had diagnosed carpal tunnel syndrome by clinical examination and electromyogram (EMG). He related, “Carpal tunnel syndrome is frequently a result of repetitive gripping or vibratory movements, and in this case is apparently related to his work. The injury [on] September 25, 2019 appears to have triggered this pain episode.”

An EMG and nerve conduction velocity (NCV) study performed on January 8, 2020 for Dr. Emeka Nwoko Okechukwu, a Board-certified orthopedic surgeon, showed mild-to-moderate right carpal tunnel syndrome.

A telephonic hearing was held on July 14, 2021. Appellant’s representative advised that he had a prior claim accepted for a right-hand contusion and when his condition failed to improve

³ OWCP assigned the present claim OWCP File No. xxxxxx951. Appellant has a prior claim under OWCP File No. xxxxxx590, which OWCP accepted for a September 25, 2019 contusion to his right hand. The employing establishment removed appellant from employment effective November 13, 2019.

he had an EMG, which demonstrated carpal tunnel syndrome. Appellant explained that his work duties included daily cleaning of tool carts inside and out. He also performed general cleaning duties, including wiping off sinks and removing food from the trays on a conveyor belt. Appellant additionally had performed meal preparation prior to his hand contusion. He returned to work on December 5, 2019 after his hand contusion, but was told that he had been terminated from employment due to misconduct for failing to follow leave procedures. OWCP's hearing representative requested that appellant provide a written statement in response to the development letter responding to the specific questions and providing a description of his work duties. She further requested supporting medical evidence.

By decision dated September 21, 2021, OWCP's hearing representative affirmed the March 12, 2021 decision. She found that OWCP should double the current claim with other claims involving appellant's right hand.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ has the burden of proof to establish the essential elements of his or her claim, including that the individual is an employee of the United States within the meaning of FECA, that the claim was filed within the applicable time limitation period of FECA,⁵ that an injury was sustained while in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.⁶ These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁷

In an occupational disease claim, appellant's burden of proof requires submission of the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁸

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical opinion evidence.⁹ The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical

⁴ *Supra* note 2.

⁵ *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁶ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁷ *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁸ *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *R.H.*, 59 ECAB 382 (2008).

⁹ *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *T.H.*, 59 ECAB 388 (2008).

certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.¹⁰

ANALYSIS

The Board finds that appellant has established that the claimed employment factors occurred as alleged..

Appellant described the work factors to which he attributed his condition during the hearing. He related that he cleaned tool carts, wiped off sinks, and removed food from trays on a conveyor belt. The employing establishment has not disputed that he performed the described duties. An employee's statement that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong and persuasive evidence.¹¹ The Board thus finds that appellant has met his burden of proof to establish that he cleaned carts daily, wiped off sinks, and removed food from trays on a conveyor belt as part of his employment duties.

As appellant has established the identified employment factors, OWCP must base its decision on an analysis of the medical evidence. OWCP, in its September 21, 2021 decision, reviewed the medical evidence of record and found that he had not submitted medical evidence sufficient to show a medical condition causally related to the identified employment factors.

In a March 13, 2020 report, Dr. Ashley discussed appellant's complaints of right hand pain and weakness and indicated that an orthopedist had diagnosed carpal tunnel syndrome. He related that "Carpal tunnel syndrome is frequently a result of repetitive gripping or vibratory movements, and in this case is apparently related to his work. The injury [on] September 25, 2019 appears to have triggered this pain episode." His opinion that carpal tunnel syndrome is frequently a result from repetitive work duties and that an injury on September 24, 2019 appeared to have caused appellant's pain is speculative in nature and, thus, of diminished probative value.¹² Consequently, Dr. Ashley's report is insufficient to meet his burden of proof.¹³

Appellant further submitted the results of electrodiagnostic testing. The Board has held that diagnostic reports, standing alone, lack probative value on the issue of causal relationship as they do not provide an opinion as to whether the accepted employment incident caused a diagnosed condition.¹⁴ This evidence, therefore, is also insufficient to establish appellant's claim.

As the medical evidence of record is insufficient to establish a medical condition causally related the accepted employment injury, the Board finds that appellant has not met his burden of proof.

¹⁰ *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *I.J.*, 59 ECAB 408 (2008).

¹¹ *See R.W.*, Docket No. 19-0339 (issued July 12, 2019).

¹² *See C.A.*, Docket No. 21-0601 (issued November 15, 2021); *L.F.*, Docket No. 20-1021 (issued July 30, 2021).

¹³ *Id.*

¹⁴ *S.W.*, Docket No. 21-1105 (issued December 17, 2021); *W.L.*, Docket No. 20-1589 (issued August 26, 2021).

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has established that the claimed employment factors occurred as alleged. The Board further finds, however, that appellant has not met his burden of proof to establish a hand and/or wrist condition causally related to factors of his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the September 21, 2021 decision of Office of Workers' Compensation Programs is affirmed as modified.

Issued: March 21, 2022
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board